

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**Carlton Michael GARY,**

**Plaintiff,**

**v.**

**Brian OWENS, *et al.*,**

**Defendants.**

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**CIVIL ACTION NO. 5:10-CV-61 (MTT)**

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**ORDER**

This matter is before the Court on the Plaintiff's Motion to Reconsider the Order Denying an Extension of Time to File a Sur-Reply and Permission to File Sur-Reply (the "Motion to Reconsider") (Doc. 24).<sup>1</sup> The Plaintiff filed a Motion for Extension of Time to Respond to Defendants' Reply Brief ("Motion for Extension of Time") (Doc. 22). United States Magistrate Judge Claude W. Hicks, Jr. ordered that the Motion for Extension of Time be denied (the "Order") (Doc. 23). The Magistrate Judge, having reviewed the Plaintiff's Motion for Extension of Time, interpreted the Plaintiff's motion to be a request for permission to file a sur-reply and not a motion to extend time to respond to Defendant's reply.

The Order properly interpreted the motion as a request for permission to file a sur-reply brief. Briefing on any motion concludes when the movant files a reply brief. Local Rule 7.3.1(a). Sur-reply briefs are not favored by the Court. Local Rule 7.3.1(b). A party desiring to file a sur-reply brief must seek permission to file within fourteen days

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<sup>1</sup> Local Rule 7.6 provides Motions for Reconsideration shall be limited to 5 pages. The Plaintiff's Motion to Reconsider is longer than 5 pages, but the Court decided to read the motion in its entirety.

of the filing of the brief to which reply is desired. Local Rule 7.3.1(c). The Magistrate Judge noted the motion to file a sur-reply was properly filed within fourteen days of the reply, but, in his discretion, denied the motion. The Magistrate Judge's grant of Defendant's motion for extension of time to file their reply brief has no bearing on whether a request for a sur-reply should be granted. The clerk may extend the time to file a brief for up to fourteen days. Local Rule 6.2. The Defendants were properly afforded a fourteen day extension to file their reply pursuant to Local Rule 6.2. The Motion for Extension of Time was not a motion to extend time to respond to Defendant's reply because the Plaintiff is not required to respond to the reply. The Motion for Extension of Time must be construed as a request for permission to file a sur-reply because Local Rule 7.3.1(c) requires permission to file briefs after the reply. The Magistrate Judge, in his discretion, denied the Plaintiff's request for permission to file a sur-reply.

The Court has thoroughly considered the Motion to Reconsider and has made a de novo determination of the portions of the Order to which Plaintiff objects. The Court accepts and adopts the findings and conclusions of the Magistrate Judge. The Motion to Reconsider is **DENIED**.

**SO ORDERED**, this the 12<sup>TH</sup> day of October, 2010.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT